



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/518,511

12/21/2004

Markus Muser

3023-106

8404

46002

7590

08/29/2006

JOYCE VON NATZMER

Hall, Vande Sande & Pequigot, LLP

10220 River Road, Suite 200

Potomac, MD 20854

EXAMINER

BLACK, MELISSA ANN

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/518,511	Applicant(s) MUSER ET AL.	
	Examiner Melissa A. Black	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/21/2004</u> . | 6) <input checked="" type="checkbox"/> Other: <u>PTO-948 Draftsman's Review</u> . |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. All headings should be in upper case letters and should **not** be underlined or bolded
 - b. Under the heading "Summary of the invention" paragraph 4, line 1 "an damping mechanism" should be --a damping mechanism--
 - c. m^2/s^2 , the units for acceleration are m/s^2 or g (page9 line 1, page 10 line 5)Appropriate correction is required.

Information Disclosure Statement

2. The information disclosure statement filed 21 December 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the accelerometer must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The drawings also fail to show "seat slide 3" as described in the specification

Art Unit: 3612

for Figure 3 (page 6, line 7,9 and 10). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3612

4. **Claims 1 and 2 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, lines 3 & 6, the word "device(s)" is indefinite. Line 10, "and further comprise", it is unclear whether the device(s) or the seat component is further including or are the device and seat component the same thing.

Claim 2 recites the limitation "an" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. Claim 1, line 11 states "an acceleration threshold", therefore in claim 2 "the" or "said" should be used.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. **Claims 1, 3, 4, 6, 12 and 15 are rejected** under 35 U.S.C. 102(e) as being anticipated by US Patent No 6,435,591 to Nilsson.

Re Claim 1, Nilsson discloses (Claims 1, 4 and 5) a seat (1) component to prevent whiplash injury during a rapid motion change of a vehicle comprising a device allowing a displacement of a seat and a person sitting thereon (Column 1, Lines 5-10). The device described by Nilsson is affixed to the bottom of the seat (not labeled in Figure 9; Column 5, Lines 47-50), a slide element (2) affixed to the vehicle and being in guiding contact with said body, to guide a translational displacement of the seat over a predetermined distance, and further comprise a trigger system (4) to detect an acceleration threshold, a release mechanism controlled through the trigger system to enable said translational displacement, a damping component (8), to damp said translational displacement, wherein the trigger system opens the release mechanism upon detection of an acceleration value above a predetermined threshold.

Re Claim 3, Nilsson discloses the damping function of the shock absorber (8) can be arranged to vary according to the force/acceleration measured by such means as an accelerometer, and the accelerometer can be obtained in the triggering device (4) (Column 9, Lines 15-18).

Re Claim 4, Nilsson discloses that the accelerometer and the control unit can be arranged in or adjacent to the shock absorber (Column 9, Lines 23 & 24).

Re Claim 6, 12 and 15, Nilsson discloses in Figures 11 & 12 that the damping component (8) has two ends, which are attached to the body of the device and the slide element (2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claim 7 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Patent No 6,435,591 to Nilsson.

Nilsson fails to disclose how the two ends of the damping component are connected, but it can be seen that the end can pivot. In Figure 11 the damping component is horizontal, then as the seat is slid backwards in Figure 12 the damping component is no longer horizontal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use pins to connect the damping component, since it has been held to be within general skill of a worker in the art to

Art Unit: 3612

select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin 125 USPQ 416.

Also, it is common knowledge to those of ordinary skill in the art to choose a pin when wanting to fasten two objects together that must be able to pivot.

7. **Claim 2, 9 and 10 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Patent No 6,435,591 to Nilsson in view of US Pat No 6,247,752 to Bowers.

Nilsson fails to show a spring-mass (moment of inertia) system.

Bower teaches that it is well known in the art to provide an inertia mass (152) that is used actuate part of the seat's safety system (column 5 lines 53-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device described by Nilsson with an inertia based actuator, as taught by Bower, to set the seat in motion during the accident, since the energy used to trigger the mass if coming from the force of the impact.

8. **Claim 5, 8, 11, 13, 14 and 16-18 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Patent No 6,435,591 to Nilsson, US Pat No 6,247,752 to Bowers in view of US Pat No 6,227,563 to Talisman.

The combination of Nilsson and Bowers fails to include a stop or lever to stop the seat after it is released backwards.

Talisman teaches that it is well known in the art to provide a stopper or lever for the seat.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a stop on the device described by the above combination

Art Unit: 3612

as to still have means of stopping the chair in the damping component would fail during the impact of the rear collision.


Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa A. Black whose telephone number is (571) 272-4737. The examiner can normally be reached on M-F 8:30-5:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571)-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mab
map


DENNISH H. PEDDER
PRIMARY EXAMINER
AV 3612
F/25/06

Application/Control Number: 10/518,511

Page 9

Art Unit: 3612